

**REMARKS****Response to Claim Rejections Under 35 USC §102**

Claims 51, 53, and 65-68 were rejected by the Examiner under 35 USC §102(b) as being anticipated by Yoon (U.S. Pat. No. 5,423,770). Claim 51 calls for a cutting element having a contracted configuration for delivery and an expanded configuration for tissue cutting. Claim 61 requires the cutting member to be longitudinally aligned. Claim 65 requires an electrosurgical cutting element on the distal end of the device. New claims 69-74 require a tissue separating element and a mechanical fixation assembly on the elongated shaft proximal to the distal end which has at least one pair of outwardly bendable legs for securing the instrument within the patient's body. Yoon fails to teach the combination of features of these claims and therefore cannot anticipate these claims.

Claim 61 was rejected by the Examiner under 35 USC §102(e) as being anticipated by Gough et al. (U.S. Pat. No. 5,735,847). The device of claim 61 includes a cutting member which cuts along its length and is longitudinally aligned and which has a fixation device with at least one pair of bendable legs. The Gough patent does not disclose this combination of features.

Claims 65-68 are rejected by the Examiner under 35 USC §102(e) as being anticipated by Heaton et al. (U.S. Pat. No. 5,879,357). Claim 65 has been amended to include an electrosurgical element on the distal end of the device. The Heaton patent does not teach or suggest the use of an electrosurgical element.

New claims 69-74 have been introduced which call for a mechanical fixation assembly and a tissue separation element. None of the cited references disclose this combination of features.

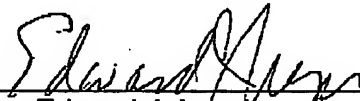
#### **Response to Allowable Subject Matter**

The applicants note with appreciation the Examiner's Indication that Claims 56 and 62-64 are directed to patentable subject matter. However, in view of the above amendments to the independent claim from which these claims depend, applicant believes that the independent claim is also directed to patentable subject matter.

#### **Conclusion:**

Applicants believe the presently pending claims define patentable subject matter. Reconsideration and an early allowance are respectfully requested.

Respectfully submitted,

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